

**WILLIAMSBURG CITY COUNCIL  
MINUTES  
AUGUST 14, 2003**

The Williamsburg City Council held its regular meeting on August 14, 2003 at 2:00 p.m. in the Council Chambers of the Stryker Building.

**ATTENDANCE**

Present were Ms. Zeidler, Messrs. Haulman, Houghland, Scruggs and Tabb. Also present were City Manager Tuttle, City Attorney Phillips, and City Clerk Crist.

Staff Attending: Department Heads Nester, Clayton, Weiler, Walentisch, Hudson, Deputy Chief Sloggie, Assistant City Manager Jodi Miller.

**CALL TO ORDER**

Mayor Zeidler called the meeting to order.

**COUNCIL MINUTES**

*Mr. Houghland Moved that City Council Approve the City Council Minutes for the Meetings of July 7 and 10, 2003. The Motion Was Seconded by Mr. Tabb.*

*Recorded Vote on the Motion:*

*Ayes: Haulman, Scruggs, Zeidler, Houghland, Tabb.*

*No: None*

**SPECIAL PRIVILEGE**

**2003 Summer Youth Achievement Program**

Mr. Walentisch thanked Council for their support of the youth program. The program is designed to improve the young peoples' social, academic, and career skills. Some of the youth have prepared comments for Council regarding the program.

**Victoria Campbell** addressed Council regarding her experience with the program. It has made her think more and to try harder. Their group was taught about "diversity." She appreciated the help of the program leaders and thanked everyone involved. She learned to keep her head up and to never give up.

**Donovan Bridgeforth** delivered his comments about the program. A participant of the program over the last two summers, he learned about showing respect, dedication, and that he needs education to achieve in life. The leaders are good listeners, motivators, and good role models. He thanked the leaders and Council members.

**Philip Brown**, 14 years old, said this was his second year in the program. The program has matured him. He was taught about respect and responsibility to others. Because the leaders helped him with his schoolwork, he is doing better in school. While in the program, he learned about new things such as Yoga and Art, but he also liked that you get to be yourself.

Mr. Walentisch recognized the partners who make the program possible, especially Paul Hudson and Lori Rierson of the city's Recreation Department, Drew Stelljes with the

College of William and Mary, and Reverend Ronald Ellis at Mt. Pleasant Church. He thanked Council for caring about the city's youth. The program's graduation ceremony will be held on Friday, August 15, at 1:00 p.m. in the Community Building.

Mayor Zeidler thanked Mr. Walentisch. She thanked the youth who spoke and said it was nice to hear good and positive comments about the program. Council believes in this youth program. She hoped the kids would achieve in school and become leaders in the future. Council members concurred. Mayor Zeidler extended an open invitation to the kids to attend Council meetings.

Council members were very proud of the youth program and the work of the summer staff.

## **PUBLIC HEARING**

**PCR #03-09: Request of Ditlef Olsen to Rezone Approximately 3.35 acres of Land Located at 222 Parkway Drive and 300 Third Street from B-3 General Business District to RM-2 Multi-Family Dwelling District. It is Proposed to Construct a Three-story Condominium Building. (Note: A letter was received from the applicant dated July 9, requesting that this matter be rescheduled for the August 14 meeting.)**

Reference for this item was Mr. Nester's report dated August 14, 2003, which included a copy of the proffers submitted by the applicant. This Public Hearing was rescheduled at the July 10 meeting. Mr. Nester explained the request and pointed out the location of the property on an overhead map. This area is designated as General Commercial land use in the Comprehensive Plan. The applicant would like to construct a three-story condominium building on the property. The proposed rezoning would permit 46 units, and if successful, the applicant intends to propose the vacation and rezoning of the adjacent Third Street right-of-way, which would allow up to 54 units. Mr. Nester recommended that Planning Commission deny this request because it does not comply with the land use recommendation in the Comprehensive Plan. Planning Commission held a public hearing on the request, and the final outcome was to make no recommendation to Council. Mr. Nester reviewed the conditions outlined in the Proffers document. He especially noted that the city would have no enforcement obligation in regard to the proffer that no more than fifteen percent of the condominiums would be rented. The Homeowners Association would be the enforcer. Council cannot modify the proffers. Council has the option to approve, approve with proffers, or deny the application.

Mayor Zeidler opened the public hearing.

**Vernon Geddy, III, Attorney, representing the applicant,** thanked Mr. Nester for his work and assistance on this matter. This rezoning is not consistent with the Comprehensive Plan, but the Plan is just a guide. Mr. Brooks and Mr. Hall have been trying to sell this property for quite some time, but it is not prime commercial development. The condominium project would provide for greater buffers and setbacks from the surrounding neighborhood because the construction will go up and not out. One-half of the property will be open space. He noted the plan to manage Stormwater. This project would have less impact on the neighbors than would a hotel, restaurant, gas station, etc., which are uses allowed by right. The units will be marketed to pre-retirees and retirees.

Mr. Geddy showed a sketch of the height of the building, existing tree line, and surrounding neighborhood. He discussed traffic generated and the remedy to correct a Stormwater

flooding problem. He summarized by saying this was a less intensive use with a superior site lay out with greater buffers. The project will generate less traffic than a commercial use and is an excellent transitional use of the property. He respectfully asked for approval.

Mr. Geddy responded to Mr. Scruggs that the condos would generate noise only from cars and the only lighting would be from small lights on balconies at the sides of the building.

**Mr. G.T. Brooks, 216 Warehams Point, partner and part owner of the property,** explained that a portion of this property was purchased 50 years ago and some of the land was purchased since. He has tried for many years to market the property for business use, but has not been successful because of the location. Mr. Olsen's condo project will be a better use for the property, protect much of the existing greenery and correct the surface water problem. He asked for favorable consideration.

**Beverly Bretana-Austin, 469 Zelkova Road, Wyndham,** spoke in opposition to the project. It does not comply with the Comprehensive Plan. The developer plans to ask for more units, it is four stories—not three with the parking level, it looks like a hotel in design, and will generate more traffic on Parkway Drive. She was concerned that if the project is approved, a crosswalk and traffic light will be needed at Parkway Dr. and Second Street.

**Kathy Short, 432 Zelkova Road, Wyndham resident,** had concerns about the condos being used for student housing, the view during the winter months, the height of the building, and rental of the units. Parkway Drive may have to be widened because of the increase in traffic.

**Russell E. Hannula, 401 Selkova Road, Wyndham,** spoke in support of Mr. Nester's recommendation because of the Comprehensive Plan. Walkers and bikers use two-lane Parkway Drive and their safety is a concern. He questioned the site statistics regarding acreage, the actual square footage of the units, and the number of units in the building. Smaller units might encourage rentals and the Homeowners Association may not enforce the restriction on rentals.

No one else wished to speak. The public hearing was closed.

Council members discussed the proposed rezoning.

Mr. Houghland had reservations about this rezoning because of the designation in the Comprehensive Plan. He was concerned about enforcement of the proffers.

Mr. Phillips addressed enforcement of the proffers. Zoning does not impose limitations on the ability to rent property. The proffers proposed are by the developer, and give the right and limitation with the developer and with the Homeowners Association. The Homeowners Association would enforce the rental provision, not the city. The Court enforces the proffers, or in this case, the Restrictive Covenants. They are a mutual burden for the benefit of everybody. Proffers cannot be forever; they have a period of vitality. With this property, the development right hinges on continued limitations on the use of the property. The City could not enforce the proffers, but could claim an overall zoning violation if the proffers were not being observed.

Mr. Clayton addressed the Stormwater drainage problem on the lot on Grove Avenue. It is prone to flooding because it is low. He was not sure what should be done to correct the problem; he had not studied it. The water drains naturally to Haynes Pond.

**Mr. Costello, AES**, provided Council with photographs of the Stormwater drainage areas. He explained the problem area. The developer would have to correct this site plan issue if this is approved.

Mr. Scruggs spoke about his involvement in the development of the 1998 Comprehensive Plan. At the time, he did not support eliminating hi-density housing. We need affordable housing in the city and he believed that this project would fall into that category, even though the prices of the units would be \$100,000 to \$200,000. He would like the purchasers of these units to be young professionals, teachers, firemen, and a more diverse group of people, to make a better community. We need families with young children in the city. He addressed the issues of lights, noise, water/sewer, traffic on Second Street, and rentals to students. While he sympathized with the people who do not want growth, he noted that this is not commercial development. He favored the rezoning.

Mr. Haulman said this has been a good process to deal with the issues. He thanked Mr. Nester and the applicant. This is an optimum use for this property and this use does less damage to the surrounding neighborhood. Mr. Haulman asked the applicant to address the following issues:

Mr. Phillips and Mr. Geddy discussed the standard practice to turn over the development from the developer to a Homeowner's Association, typically after 75% of the units have sold. While the developer has control, he also has an incentive to enforce restrictions.

**Mr. Olsen** said the units are planned to be from 2,000 square feet to 2,400 square feet. Size of some units will depend on whether the building has 46 or 54 units.

**Mr. Costello** reviewed the scaled sketches of the building versus the surrounding buffer of massive trees. There is more visibility in cold weather, but the landscaping near the building will help.

Mr. Haulman noted his concerns about protecting neighborhoods and the land use designation in the Comprehensive Plan.

Mayor Zeidler commented that she does not like to waiver from the Comprehensive Plan. The Comprehensive Plan and zoning try to balance residential and commercial uses, as well as housing needs.

Mr. Nester discussed the 2000 census results and that some units on Merrimac Trail were miscounted. Nevertheless, the city has 28% of high density residential. During the Comp Plan update, this property was left "commercial" zoning. He reviewed the buffer and setbacks from the nearby Pinecrest neighborhood. Most any commercial use of this property would generate more traffic than the residential proposal.

**Mr. Olsen** responded to Mr. Tabb that the units would cost \$160,000 to \$290,000.

The Mayor considered this proposal more of a suburban housing concept. The drainage problem on Grove Avenue would be corrected and the traffic impact would not be great. While it goes against the designation in the Comprehensive Plan, what best protects the neighbors? She was contemplating if this request should be denied, and the developer asked to change the Comprehensive Plan, which would take more time.

Mr. Houghland and Mr. Costello discussed the height of the proposed building. Mr. Costello said a 3/12 metal roof would work for this building. The building will meet the 35-foot height restriction, and the Architectural Review Board will review it.

*Mr. Scruggs Moved That City Council Approve Proposed Ordinance #03-15, An Ordinance to Rezone Approximately 3.35 Acres at 222 Parkway Drive and 300 Third Street from B-3 to RM-2 Conditional, Including the Proffer Agreement. The Motion Was Seconded by Mr. Tabb.*

*Recorded Vote on the Motion:*

*Aye: Haulman, Scruggs, Zeidler, Tabb*

*No: Houghland (SEE ATTACHED ADOPTED ORDINANCE #03-27 WITH PROFFERS)*

## **REPORTS**

### **Monthly Financial Statement**

*The Monthly Financial Reports were received and ordered filed.*

### **Monthly Departmental Operating Reports**

*The Monthly Department Reports were received and ordered filed.*

Mr. Tuttle reported on the progress of the Rental Inspection Program. Mayor Zeidler noted that she received a letter concerning fourteen code violations from a property owner, and the letter was also in the newspaper. Mr. Tuttle responded that inspections address substantial and serious issues regarding safety and health.

### **City Manager Reports**

#### **SunTrust Bank, Corporate Resolution and Certificate of Incumbency, *Proposed Resolution #03-15***

Reference for this item was Mr. Tuttle's memorandum dated August 5, 2003, which included a copy of the proposed resolution and exhibits. Mr. Tuttle explained that SunTrust Bank has requested that City Council approve the "Corporate Resolution and Certificate of Incumbency" to authorize his signature and Phillip Serra's signature on the City's General Fund and Payroll Accounts, and also authorize SunTrust to honor any check, draft, item, or other written order on either account.

Mr. Serra said this action is a housekeeping issue. He found that SunTrust's charges for service are in line with other banks. Mr. Houghland suggested that perhaps the city might want to consider the services offered at other financial institutions.

*Mr. Haulman Moved that City Council Adopt Proposed Resolution #03-15, Authorizing the City Manager and City Finance Director to Execute the Attached Exhibit A and Exhibit B*

*“Corporate Resolution and Certificate of Incumbency” for the City’s General Fund and Payroll Accounts Established with SunTrust Bank. The Motion Was Seconded by Mr. Scruggs.*

*Recorded Vote on the Motion:*

*Ayes: Haulman, Scruggs, Zeidler, Houghland, Tabb.*

*No: None* (SEE ATTACHED ADOPTED RESOLUTION #03-15)

**Law Enforcement Mutual Aid Agreement, Proposed Resolution #03-14**

Reference for this item was Mr. Tuttle’s memorandum dated August 1, 2003, which included a copy of the agreement. Mr. Tuttle explained this is an updated version of the original Hampton Roads Police Mutual Aid Agreement that has been in existence since 1997. It includes the County of York and Town of Smithfield as new parties to the agreement. It is recommended that Council adopt the agreement.

*Mr. Houghland Moved that City Council adopt Proposed Resolution #03-14, Law Enforcement Mutual Aid Agreement, authorizing the City Manager to Sign on Behalf of the City. The Motion Was Seconded by Mr. Tabb.*

*Recorded Vote on the Motion:*

*Ayes: Haulman, Scruggs, Zeidler, Houghland, Tabb.*

*No: None* (SEE ATTACHED ADOPTED RESOLUTION #03-14)

**Fee for Residential Permit Parking, Proposed Ordinances #03-26 and #03-27**

Reference for this item was Mr. Tuttle’s report dated July 2, 2003. Mr. Tuttle explained that Mr. Haulman raised this issue at the June Council meeting. Mr. Haulman was of the opinion that if owners of non-city registered vehicles were permitted to purchase decals at a lower cost, they would be more likely to park on city streets instead of in yards. Mr. Tuttle asked Mr. Serra, Chief Yost, and Ms. Crist to study the matter. Based on their findings, staff supported the idea of a uniform \$2.00 fee for all residential parking permits, and recommended to the City Manager that the \$50.00 decal fee for motor vehicles not registered in the city be eliminated for the current decal year (proposed ordinance #03-26), and further, that as of next September 1 that the decal fee be increased to \$5.00 (proposed Ordinance #03-27). Mr. Tuttle concurred and recommended adoption of the ordinance.

Mr. Houghland asked if the decal issuance process could be used to track the number of unrelated people living in a household. Mr. Tuttle responded that there was no automatic way of doing so, but the connection could be made between Finance and the Zoning Administrator.

Chief Sloggie said that while Chief Yost had concerns about the effects of more people parking on city streets once they receive decals, it is not yet a factor.

Mr. Houghland was in hopes that this proposal would help reduce the number of people parking in yards. He suggested a sunset clause be added to the ordinance in case the city finds this is not effective.

Council members concurred that they would not enact Proposed Ordinance #03-27 at this time, which would increase the decal fee from \$2.00 to \$5.00, and agreed that a sunset

clause should be added to Proposed Ordinance #03-26.

*Mr. Haulman Moved That City Council Adopt Proposed Ordinance #03-26, Amending the City Code to Eliminate the \$50.00 Decal Fee for Vehicles Not Registered in the City Effective September 1, 2003, and that a Sunset Clause be Added to the Ordinance. The Motion was Seconded by Mr. Houghland.*

*Recorded Vote on the Motion:*

*Ayes: Haulman, Scruggs, Zeidler, Houghland, Tabb.*

*No: None* (SEE ATTACHED ADOPTED ORDINANCE #03-26)

### **Jamestown Road Traffic and Parking Study**

Reference for this item was Mr. Tuttle's report dated August 7, 2003. Council members received a copy of the RFP for "Traffic Engineering Services, Jamestown Road Area Traffic and Parking Study."

City staff in consultation with college staff has prepared the attached Request for Proposal for a traffic and parking study. The College will pay fifty percent of the cost. The RFP has been advertised, and refinements to the Scope of Work can still be made if necessary before entering into a contract for the study. The proposed schedule calls for

- Receipt of Proposals on August 22
- Council approval of the consulting contract on September 11
- Data collection during fall 2003 semester
- Completion and presentation of study in January 2004

To monitor the progress of the consultant, a study committee named jointly by Mayor Zeidler and President Sullivan, composed of city and college staff, two neighborhood representatives, and a William and Mary student representative is proposed. Additionally, a public meeting open to all interested in the study will be conducted at the outset, and again at the 90% completion point.

Mr. Tuttle recommended that Council direct the City Manager to bring back to City Council a proposed contract for the Jamestown Road Traffic and Parking Study at the September Council meeting. This study will provide valuable and factual data.

*Mr. Tabb Moved that Council Direct the City Manager to Bring Back to City Council a Proposed Contract for the Jamestown Road Traffic and Parking Study at the September Council meeting. The Motion Was Seconded by Mr. Houghland.*

*Recorded Vote on the Motion:*

*Ayes: Haulman, Scruggs, Zeidler, Houghland, Tabb.*

*No: None*

### **City Attorney Reports**

#### **Amendments to City Code, Proposed Ordinances #03-17 to #03-25**

Reference for this item was Ms. Crist's report outlining the proposed nine ordinances to amend the City Code. Mr. Phillips explained that his law intern reviewed the City Code and found the discrepancies. When the State Code is changed, the City Code needs to be updated to reflect the new section numbers. The proposed ordinances will update the City

Code where needed. Mr. Phillips noted the words "to delete" needed to be inserted in the second "Whereas" in Ordinance #03-21.

*Mr. Houghland Moved that City Council Adopt Proposed Ordinances #03-17 to #03-25 as follows:*

*#03-17, An Ordinance to Amend Section 9-328 of Chapter 9, Article VI, Division 3 of the Williamsburg Code Prohibiting Misrepresentations as to Income Tax Deductions; and*

*#03-18, An Ordinance to Amend Section 9-36 of chapter 9, Article II of the Williamsburg Code Providing for Exceptions to Special Event Permit Requirements; and*

*#-03-19, An Ordinance to Amend Section 9-37 of Chapter 9, Article II of the Williamsburg Code Providing for Exceptions to Special Event Permit Requirements; and*

*#-3-20, An Ordinance to Repeal Section 10-102 of Chapter 10, Article VI of the Williamsburg Code Setting Forth Exceptions to Gambling Restrictions; and*

*#03-21, An Ordinance to Amend Section 12-34 of Chapter 12, Article II.5 of the Williamsburg Code Providing for Noise Control; and*

*#03-22, An Ordinance to Amend Section 12-76 of Chapter 12, Article IV of the Williamsburg Code Providing for Weed, Grass, and Maintenance of Premises; and*

*#03-23, An Ordinance to Amend Section 12-77 of Chapter 12, Article IV of the Williamsburg Code Providing for Weed, Grass, and Maintenance of Premises; and*

*#03-24, An Ordinance to Amend Section 15-81 of Chapter 15, Article V of the Williamsburg Code Regulating Special Events; and*

*#03-25, An Ordinance to Amend Section 20-128 of Chapter 20, Article II, Division 5 of the Williamsburg Code Regulating Taxicab Rates.*

*The Motion Was Seconded by Mr. Haulman.*

*Recorded Vote on the Motion:*

*Ayes: Haulman, Scruggs, Zeidler, Houghland, Tabb.*

*No: None* (SEE ADOPTED ORDINANCES #03-17-#03-25)

### **Open Forum**

Mayor Zeidler opened the floor for comment. No one wished to speak. The session was closed.

The meeting adjourned at 4:30 p.m.

Approved: September 11, 2003